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EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 10

Application Number: 09/904,122

Filing Date: 7/13/01

Appellant(s): FREDERICKSON

**MAILED**

OCT 31 2003

**GROUP 3600**

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Gordon Shields

For Appellant

Art Unit: 3643

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed June 31, 2003.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

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**(5) Summary of Invention**

The summary of invention contained in the brief is correct.

**(6) Issues**

The appellant's statement of the issues in the brief is correct.

**(7) Grouping of Claims**

Appellant's brief includes a statement that claims 1 and 4-9 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Appellant's brief includes a statement that claims 11 and 12 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Appellant's brief includes a statement that claims 13-16 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

4598493	O'Brien et al.	7/1986
3987573	Clayton	10/1976
2097536	Shirk	11/1937

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 4-5, 7, 9-13, 15-16 are rejected under 35 U.S.C. 103 as being unpatentable over O'BRIEN in view of Clayton. This rejection is set forth in prior Office Action, Paper No. 4.

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Claims 6, 8, and 14 are rejected under 35 U.S.C. 103 as being unpatentable over O'Brien in view of Clayton and Shirk. This rejection is set forth in prior Office Action, Paper No. 4.

**(11) Response to Argument**

Applicant argues that O'Brien requires an insert and that the present invention does not require such an element. However, the fact that O'Brien requires an insert is immaterial to the claims of the instant application. As to the barbs of the present invention, applicant states that they are not structurally the equivalent of the hooks of Clayton. However, applicant recites no structure of the barbs in claims 1 and 11. The specification does not even state the purpose of the barbs. From the drawings, the barbs appear to be the end of the wire that make up a link. Applicant argues claims 2-3, but these claims have been canceled and included with claim 1. Clayton shows a barb 26 at the end of each chain element, but it would have been obvious to employ more barbs, such as one per each link, for multiplied effect. See *In re Harza*, 124 USPQ 378. Claim 11 does not recite links but chain elements which can be interpreted as group of links such as 21a in O'Brien. Applicant argues that O'Brien does not show a reel. However, O'Brien shows a rod 13 with eyelets which retrieving line 15 is mounted to. Clearly O'Brien contemplates the use of a reel along with the rod to increase the utility of the device. See O'Brien in column 2, line 40 which states that it may not be necessary to have a retrieving pole since the line could be lowered by hand. This implies that a reel is used with the rod or the line would have to be lowered by hand even with the pole. At any rate, it would have been obvious to employ a reel in conjunction with the rod to store the retrieving line. As to the slit in the sleeve, claim 7 recites a parallel slit which is shown by O'Brien. Claim 6 recites a diagonal slit which is shown in Fig. 1. Applicant argues that the slit shown by Shirk is not diagonal. However, applicant does not define diagonal and a common means of the term can be "having a slanted direction". The slit 2 of Shirk has a

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slanted direction with respect to the longitudinal axis of the body 1. Hence the slit extends diagonally with respect to the longitudinal axis of the body which is what the claim recites. In reference to claim 8, applicant argues that Shirk does not show the slot as being diametrically opposite to where the line is secured to the sleeve. However, note Fig. 2 of Shirk, which show that the slit is on the right hand side of the sleeve or body and that the line 4 is secured to the left hand side of the sleeve. Hence the line is secured to the diametric opposite side of the sleeve from the slit.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Kurt Rowan



KR

October 29, 2003

Conferees

PP

JO